in similar actions an opposite result has been reached as a matter of policy, and on the ground that the duty was not a judicial one. *Insurance Co.* v. *Lewin*, 24 Col. 43; *State* v. *County Com'rs*, 54 Md. 426. In criminal cases the law, though meagre, is to-day practically universal that the verdict of a coroner's jury is inadmissible at the subsequent trial, even as *prima facie* evidence. *Crisfield* v. *Perine*, 15 Hun (N. Y.) 200; *Colquit* v. *State*, 64 S. W. Rep. 713 (Tenn.). Yet in Louisiana the verdict, though not competent as proof of crime, is admissible to show the fact of the deceased's death. *State* v. *Parker*, 7 La. Ann. 83. And in at least one jurisdiction depositions taken before the coroner are admissible to impeach the credibility of a witness. *People* v. *Devine*, 44 Cal. 452.

The exclusion of this form of evidence seems proper. It is purely hearsay, and is the mere opinion of a lot of men hurriedly gathered together, who have not time to look into the facts carefully, and who have had only slightly better opportunities of discovering the truth than the trial jury itself. Lastly, it is peculiarly dangerous, being much open to abuse by the jury. It is a temptation to them to use some other men's judgment instead of their own. A sound policy removes all such temptations from the jury whenever possible.

INTERFERENCE WITH LIGHT AND AIR BY ELEVATED RAILROADS. — In a recent decision the New York Court of Appeals reached a conclusion seemingly inconsistent with the position of that court in the famous elevated railway cases. An action was brought for injury to the plaintiff's easements of light and air by the operation of the defendant's railroad upon an elevated structure in Park Avenue, New York City. The defendant had acquired the right to run its trains in front of the plaintiff's property in a depressed cut through the centre of Park Avenue. In 1892 the State Legislature enacted a bill providing for the erection of a viaduct upon which the defendant's trains should be operated and the filling in and opening up of the depressed cut for general street purposes. The work was to be done under the direction of a board appointed by the mayor, one half of the expense being paid by the defendant and the remainder raised by assessment upon property benefited. The defendant was directed to run its trains upon the structure when completed. Pursuant to this act the viaduct was erected and in 1897 the defendant began running its trains upon it. The plaintiff claimed damages for the injury to his light and air from that date. By a divided court recovery was denied. *Fries* v. *N. Y. & H. R. R.*, 169 N. Y. 270. The position taken by the prevailing opinion was that the injury to the plaintiff arose in consequence of the grading of the street and was therefore *damnum absque injuria;* that the injury was caused by the act of the state and not by that of the defendant; and, finally, that if the defendant in operating its trains trespassed upon the property rights of the plaintiff the proper remedy was an attack upon the constitutionality of the act, which question could not be raised for the first time in the Court of Appeals.

The decision seems inconsistent with the established New York doctrine that an injury to easements of light and air by the operation of an elevated railroad constitutes a taking of property within the meaning of the constitution. *Story* v. *N. Y. El. R. R.*, 90 N. Y. 122. The improvement in question is obviously something more than the grading of a

street; it is both a grading and the erection of an elevated structure for the passage of railroad trains. But even if it be treated as a grading the judgment is inconsistent with an earlier decision that the raising of a street grade for the exclusive use of a railroad is within the principle of the *Story* case, *supra*. *Reining* v. *N. Y., L. & W. R. R.*, 128 N. Y. 157. Upon the point that the erection of the viaduct is the act of an agent of the state for which the defendant cannot be held liable the decision is squarely in conflict with an earlier decision by the same court upon substantially the same facts. *Lewis* v. *N. Y. & H. R. R.*, 162 N. Y. 202. But assuming the soundness of the present position as to liability for the erection of the viaduct, there remains the injury to the plaintiff's easements by the operation of the defendant's trains upon the structure and for that injury the doctrine of the *Story* case provides a recovery. The suggestion, of the court that the statute is unconstitutional if obedience thereto involves a trespass, violates the established rule of construction that regulations of public corporations requiring the taking by them of private property do not imply a taking without compensation. *Gardner* v. *Trustees of Newburgh*, 2 Johns. Ch. (N. Y.) 162. The decision under discussion leaves the law of New York in a curious condition. The state may authorize steam railroad companies to run trains through the public streets without compensation to abutters not owning the fee. *Fobes* v. *R., W. & O. R. R.*, 121 N. Y. 505. Once established there, according to the principal case, they may be authorized to run their trains upon elevated structures without compensation. Thus, indirectly, may be reached a result that under the doctrine of the *Story* case amounts to a violation of the constitutional provision against the taking of property without compensation.

Liability of a Vendor for Negligence in the Sale or Construction of a Chattel. — Does the negligence of a vendor in selling a defective chattel render him liable to other than his immediate vendee? A recent Rhode Island decision has added another jurisdiction to those answering this question in the negative. *McCaffrey* v. *Mossberg, etc., Mfg. Co.*, 50 Atl. Rep. 651. The plaintiff, an employee of a manufacturing jeweller, was injured by the breaking of a drop press negligently constructed by the defendant, and sold by him to the jeweller. Recovery was denied on the ground that no duty of care was owed by the defendant to the plaintiff.

The authorities almost unanimously accord, the decisive arguments being an absence of duty to the plaintiff, a break in the chain of legal causation, and the multiplicity of suits thought likely to result if the action were allowed. *Curtin* v. *Somerset*, 140 Pa. St. 70; *Bragdon* v. *Perkins-Campbell Co.*, 87 Fed. Rep. 109. But *cf. Glenn* v. *Winters*, 40 N. Y. Supp. 659. On the other side, it is argued that the natural consequence of putting a defective article on the market is injury to whoever uses that article, and that under modern conditions such person is generally not the first vendee but his servant or sub-vendee, to whom a duty of care is consequently owed; that the rule of "natural and probable consequences" should determine the class of persons who may claim reparation, as well as the kind of physical damage for which compensation may be obtained. See 16 L. Quart. Rev. 168. This argument finds support chiefly in certain analogous classes of cases where